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Attorney for Defendant

Amy Frank

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION**

Richard C. Carrier, Ph.D.,
an individual,

Plaintiff,

v.

Amy Elizabeth Frank,
an individual,

Defendant.

Case No.: 2:19-CV-02719-JJT

OPPOSITION

Defendant Amy Frank opposes Plaintiff Richard Carrier's Motion to appear telephonically at the July 22, 2019 Pretrial Scheduling Conference, and requests that the Motion be denied. Plaintiff filed this case in Arizona, and he has articulated no hardship or other basis upon which the Court may grant his motion. Merely residing in another state does not justify a *carte blanche* order of telephonic appearance in this litigation. Ms. Frank

1 does not oppose rescheduling the Pretrial Scheduling Conference to July
2 25 or 26, 2019.

3 Defendant does not wish to be unreasonable, and there may be
4 future hearings or appearance dates where telephonic appearances
5 make sense. However, the Pretrial Conference is not one of those situations.
6 It is true that the Court's Order stated that out-of-state **counsel** responsible
7 for trial may file a Motion to appear telephonically if they have been
8 granted permission to appear *pro hac vice*. See ECF 17 at 1, n.1 (emphasis
9 added). Here, Carrier is not counsel – he is *pro se*, without the inherent
10 understanding of how the Court works that comes with a law license.
11 Essentially, courts and attorneys have a pre-existing relationship that is not
12 present in a *pro se* situation.

13 While Counsel are expected to understand what it means to confer
14 with the court in good faith, understand deadlines, and to work within the
15 contours of the rules of civil procedure, *pro se* litigants need to understand
16 the magnitude of what they are doing and to come before the Court at
17 least once – and this is the best time for that.

18 Carrier's personal appearance is necessary so that the Court may
19 explain the seriousness of the Court's rules: this may not be fully conveyed
20 telephonically, given that a face-to-face meeting with the Judge, and
21 opposing counsel, will include physical actions such as eye contact, body-
22 language, and many other signals that cannot be accurately conveyed in
23 a phone call. Further, conducting Pre-trial conferences in person helps
24 facilitate settlement and narrow the issues.

Carrier has already been somewhat deficient in following the rules. Of course, as a *pro se* Plaintiff, this is unsurprising. But, it is somewhat unfair to expect the Plaintiff to pay to educate Mr. Carrier. Mr. Carrier's presence before the Court, this time, will (hopefully) stand as his crash course in how to comport himself before the Court.

Based on the foregoing, Defendant asks that the Court reschedule the Pretrial Conference to either July 25 or 26, 2019 so that Carrier can attend in person. The Parties can submit additional dates as well if needed. Ms. Frank requests that the Court deny Carrier's Motion to Appear Telephonically.¹

Dated this 13th day of June 2019.

Respectfully Submitted,

RANDAZZA LEGAL GROUP, PLLC

/s/Marc J. Randazza

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Attorney for Defendant

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¹ To be clear – for future motion hearings, the Defendant does not anticipate a wholesale rejection of the notion of telephonic appearances. But, to get things off on the right foot, Mr. Carrier should come to the Court where he filed his lawsuit.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 13, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully Submitted,

/s/Marc J. Randazza

Marc J. Randazza

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